IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.189 OF 1998

The Commissioner of Income Tax
Kolhapur .. Applicant.

V/s.

Sahyadri Sahakari Sakhar Karkhana
Ltd., Yashwantnagar .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case, the I.T.A.T. was justified in holding that the excess amount realised by the assessee in respect of the sale of levy sugar under High Court's decree, over and above the sale price fixed by the Government was only a deposit of money with the assessee to strengthen its financial position against an alleged increase in the cost of sugar production and which cannot become the income of the assessee ?

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Seksaria Biswan Sugar Factory Ltd.**

[(1992) 195 ITR 778 (Bom)] in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Seksaria Biswan Sugar Factory Ltd.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)